

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301
Indianapolis, IN 46204
(317) 233-0696
<http://www.in.gov/legislative>

FISCAL IMPACT STATEMENT

LS 6954

BILL NUMBER: HB 1215

NOTE PREPARED: Jan 8, 2008

BILL AMENDED:

SUBJECT: Common Construction Wage.

FIRST AUTHOR: Rep. Stilwell

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: X GENERAL
X DEDICATED
X FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill makes the following changes to the Common Construction Wage Law:

1. The bill requires that the Common Construction Wage (Wage) be determined on two skill levels (rather than three classes) of labor and provides that the wage includes fringe benefits.
2. It requires that information submitted to a wage committee be accompanied by a verified statement that the information is true and accurate.
3. The bill also requires the State Department of Labor to compel compliance with the Wage statute by an awarding agency that has divided a public work project to avoid the statute.
4. It also establishes requirements for payroll and other records submitted by contractors and subcontractors performing work on a public work project.
5. The bill eliminates an exemption from the Wage statute for public work performed at certain Purdue University facilities.
6. It provides that the Commissioner of the Department has certain powers to investigate and enforce violations of the Wage statute.
7. It also establishes a Department procedure and a private right of action to enforce the Wage statute.
8. The bill prohibits for at least five years the award of a public work contract to a contractor, subcontractor, or certain persons with an interest in a contractor or subcontractor that violates the Wage statute at least two times during a three-year period.
9. The bill also prohibits an agreement to pay a wage lower than the Common Construction Wage on a public work project.
10. It provides that a knowing or intentional violation of the Wage statute is a Class B misdemeanor.
11. It also provides that making certain requests or demands on a worker to pay back, return, donate, contribute, or give back the worker's wages, salary, or another thing of value to obtain or retain employment on a public work project is a Class A misdemeanor.

12. The bill requires that a person awarded a public work contract by the Department of Transportation pay at least the Common Construction Wage.
13. It repeals superseded statutes concerning penalties for violating the Wage statute and wages paid on public work projects awarded by the Department of Transportation.

Effective Date: July 1, 2008.

Explanation of State Expenditures: The bill could increase the impact of the common construction wage law on projects. A number of studies suggest that wage determination provisions generally increase the labor cost of public works projects from 5% to 16%, and changes from this wage determination provision might increase expenditures. However, the precise impact of the change cannot be determined.

Some studies argue for prevailing wage-type systems on the grounds that they lead to greater efficiency, quality, and safety by providing for a stable, well-trained labor force. If such benefits were not realized, school corporations and universities could realize an increase in cost in the long run. Unfortunately, data limitations and questionable methodology limit the conclusiveness of many studies on prevailing wage laws.

Secondary Impact: If, as studies have shown, common wage requirements increase the costs of labor to the state, then higher wages may have the following effects:

- State income tax collections could increase (assuming no increase in employment levels), increasing consumption and further increasing sales tax revenue.
- Debt incurred to finance projects could increase due to higher project costs, increasing bonding or property taxes.
- Funds may not be available for other public works projects that would have been required for the project. Similarly, capital expenses could increase, making less funding available for noncapital expenses in project budgets.

The 2007 budget bill appropriated about \$550 M for capital projects for the 2007-2009 biennium and authorized university bonding authority of \$518.27 M for construction projects.

Explanation of State Revenues: See *Explanation of State Expenditures*, above. If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for a Class A misdemeanor is \$5,000 and \$1,000 for a Class B misdemeanor. Criminal fines are deposited in the Common School Fund.

If the case is filed in a circuit, superior, or county court, 70% of the \$120 court fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund. In addition, some or all of the document storage fee (\$2), automated record keeping fee (\$7), judicial salaries fee (\$17), public defense administration fee (\$3), court administration fee (\$3), judicial insurance adjustment fee (\$1), and the DNA sample processing fee (\$1) are deposited into the state General Fund.

Explanation of Local Expenditures: See *Explanation of State Expenditures*, above. The Department of Local Government Finance approved school new construction projects worth \$597.6 M during CY 2007. The amount of construction projects for civil units is unknown.

A Class A misdemeanor is punishable by up to one year in jail, and a Class B misdemeanor is punishable by up to 180 days in jail. The average daily cost to incarcerate a prisoner in a county jail is approximately \$44.

Explanation of Local Revenues: If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: The county general fund would receive 27% of the \$120 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. In addition, several additional fees may be collected at the discretion of the judge and depending upon the particular type of criminal case.

State Agencies Affected: All.

Local Agencies Affected: All.

Information Sources:

Fiscal Analyst: Chuck Mayfield, 317-232-4825.